hvn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7214 OF 2005

Shri. Harakchand J. Bhandari ... Petitioner

Versus

The Commissioner,
Pune Mun. Corpn. and Ors. ... Respondents

Ms. Kiran Bagalia with Mr. Ankit Mehta i/by Haresh Mehta & Co. for Petitioner.

Mr. R.G. Ketkar for R. No. 1.

Mrs. M.P. Thakur, A.G.P. for R. Nos. 2 and 3.

CORAM: F.I. REBELLO &
S.J. VAZIFDAR,JJ.
DATED: FEBRUARY 09, 2007

P.C.:

. The revised development plan for Pune was sanctioned by the Government on 5.1.1987. The Petitioner has approached this court in the year 2006. It is their grievance that they were making representations. It is further submitted that the decision by the Government as reflected in the letter dated 23.1.1987 was because there was no proper lay out for Munjeri area along with designated sites for public amenities like primary schools etc. The scheme of the M.R.T.P. Act would require that after the draft development plan has been submitted to the State Government, it is for the State Government to sanction the plan as submitted or to propose revisions and if this

revision be required, further consideration by the planning authority to follow the procedure. Nothing has been pointed out to us as to how the scheme as sanctioned suffers from any illegality in the matter of consideration or non consideration of the provisions of the M.R.T.P. Act. Secondly the development plan is an exercise in subordinate legislation. Under the M.R.T.P. Act, the life time of the plan is 20 years pursuant to Section 38 of the M.R.T.P. Act. After the expiry of 20 years, the procedure for revised development plan has to be set into motion. On behalf of the Planning Authority, the learned counsel submits that in fact that exercise has already commenced. The Judgment in Bombay Dyeing and Manufacturing Co. Ltd. Versus Bombay Environmental Action Group (2005) 5 S.C.C. 61 will make it clear that the delay in challenging the development plan is one of the factors which the court must consider while considering the challenges to delegated legislation, apart from the fact that the Petitioner must show that the delegated legislation is liable to be quashed on the ground of manifest arbitrariness. In the instant case, life time of the plan has been expired. Nothing has been shown to us that the delegated legislation suffers from any manifest arbitrariness. In the light of that, we are not inclined to interfere in the exercise of our extra ordinary jurisdiction.

. However, we make it clear that it will be open to the Petitioners when the revised draft development plan is put up for objections, to file their objections and in such event the authorities are bound to follow the procedure prescribed under the M.R.T.P. Act and thereafter to pass appropriate orders according to law.

. With the above observations, Petition disposed of. No order as to costs.

(S.J. VAZIFDAR,J.) **(F.I.REBELLO,J.)**